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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,994	03/14/2002	Petrus Johannes Van Geijlswijk	Q68639	6466

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EXAMINER

MAYES, MELVIN C

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 07/30/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/070,994

Applicant(s)

VAN GEIJLSWIJK, PETRUS
JOHANNES

Examiner

Melvin Curtis Mayes

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 7, 9-12 and 14 is/are rejected.
- 7) ☒ Claim(s) 5, 8, 13 and 15 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 112

(1)

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

(2)

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 claims that the support belt is removed “upstream of the application head” but depends from Claim 1 which claims that “the support belt is urged towards the object by means of the application head in order to bring the front side of the label into contact with the object.” If the support belt is removed upstream of the application head, as claimed in Claim 7, it cannot be “urged towards the object” by the application head to bring the label into contact with the object, as claimed in Claim 1. Claim 7 does not further limit Claim 1 and cannot depend from Claim 1.

Claim Rejections - 35 USC § 103

(3)

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

(4)

Claims 1-4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brandt et al. 5,458,714.

Brandt et al. disclose a method and system for labelling a container comprising: providing a supply reel of label laminate comprising a backing layer with a coating of heat activatable release material, ink labels printed on the coated backing layer, bonding layer on the labels and adhesive layer on the bonding layer; feeding the label laminate from the supply reel across a warm platen 130 to heat the release material to permit easy separation of the backing layer from the label; feeding the label laminate to a heated roll 134 to press the label onto a container; and removing the backing layer by a take-up reel 150. As shown in Figure 2, the backing layer is bent at the warm platen as it is fed from the supply reel to the heated roll (col. 4, line 1 – col. 6, line 35, Figure 2).

By the backing layer being bent at the warm platen used to heat the release material to permit easy separation of the label from the backing, a support belt (backing layer) and label are obviously urged over a strip (platen) to bend the support belt and to reduce adhesion between the support belt and label, as claimed.

(5)

Claims 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brandt et al. as applied to claim 1 above, and further in view of EP 0 930 237.

Brandt et al. discloses that the backing layer can be a polypropylene film. Brandt et al. does not disclose that the heated press roll is displaceable with respect to the frame to which it is attached.

EP '237 teaches that in a labelling device, low temperature films such as polypropylene must be prevented from contacting the heated roller during pauses in the labelling operation. EP '237 teaches that the roller is retractable behind the film to avoid stretching and distortion of the film such as polypropylene (col. 9, lines 32-42).

It would have been obvious to one of ordinary skill in the art to have modified the system of Brandt et al. for labelling by providing the heated press roll as retractable, and thus displaceable, as taught by EP '237, to avoid stretching and distortion of the polypropylene backing layer which can occur if the film contacts the heated roller during pauses in the labelling operation. By the press roll being reciprocal, the distance between the edge (warm platen) and application head (press roller) is obviously adjustable, as claimed in Claim 9.

(6)

Claims 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0 930 237.

EP 0 930 237 discloses a labelling device comprising: reciprocating pressure roller to press a backing web carrying transfer labels against containers; take-up spool for collecting the backing web; and a guide element having an edge located on each side of the pressure roller

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wherein the backing web is supplied to the transfer station and removed therefrom at a sharp angle (col. 10, line 18 – col. 11, line 15, Figure 6).

By providing the guide element having an edge as shown in Figure 6 for supplying the backing web to the transfer station at a sharp angle, an edge is obviously arranged upstream of the pressure roller (application head) comprising a contact surface which extends transversely with respect to the direction of movement of the support belt (backing web) and provides an angle in the path of the support belt in order to bend the support belt to obtain local deformation, as claimed. By the pressure roller being reciprocal, the distance between the edge (guide element) and application head (pressure roller) is adjustable, as claimed in Claim 9.

(7)

Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over La Mers 3,450,590.

La Mers discloses an apparatus for applying adhesive coated labels comprising: plunger 32 movable by plunger reciprocating apparatus 34 to apply labels to articles; drive gears for feeding a label web towards a take-up reel 30; and stripper plate having sharp edge 22E over which the label web is pulled (col. 2-3).

By providing a stripper having sharp edge over which a label web is pulled, an edge is obviously arranged upstream of the plunger (application head) comprising a contact surface which extends transversely with respect to the direction of movement of the web and provides an angle in the path of the web and is capable of removing a support belt from the plunger (application head) towards the take-up reel (removal roll). By the plunger being reciprocal, the

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distance between the edge (stripper plate) and application head (plunger) is adjustable, as claimed in Claim 9.

(8)

Claims 9-11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barta 4,379,017.

Barta discloses a apparatus for transferring decalcomania comprising: stamping device 23 movable by a means of a known drive such as a compressed-air cylinder; driving rollers 20, 21 and driving pulleys 28, 29 to draw the decal picture strip from a delivery spool; guide ways 24, 25 on each side of the stamping device; and batching roller (30). The stamping device has member 31 adapted to the form of the objects to be decorated such as a vase or bottle. As shown in the Figure 3, the face of the member 31 of the stamping device which faces the object is concave and the guide ways on each side of the stamping device provide an angle in the path of the strip (col. 10, lines 15-40, Fig. 3).

By providing a guide way over which the strip is pulled, an edge is obviously arranged upstream of the stamping device (application head) comprising a contact surface which extends transversely with respect to the direction of movement of the web and provides an angle in the path of the web and is capable of removing a support belt from the stamping device (application head) towards the batching roller (removal roll). By the stamping device being movable, the distance between the edge (guide way) and application head (stamping device) is adjustable, as claimed in Claim 9.

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Allowable Subject Matter

(9)

Claims 5, 8, 13 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

(10)

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The references disclose methods of transferring labels to objects.


(11)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin Curtis Mayes whose telephone number is 703-308-1977. The examiner can normally be reached on Mon-Fri 7:00 AM - 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 703-308-3853. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


Melvin Curtis Mayes
Primary Examiner
Art Unit 1734

MCM
July 23, 2003